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SIPDIS

GENEVA PLEASE PASS TO JEFF DELAURENTIS

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SUBJECT: UNHCHR REPORT ON COLOMBIA

Classified By: Charge Milton Drucker for reasons 1.5 (b&d)

11. (C) Summary: The Office of the UN High Commissioner for Human Rights (UNHCHR) in Colombia is finalizing its report for Geneva on the GOC's compliance with its 27 human rights recommendations. The report is likely to criticize the GOC for slow and uneven implementation of the recommendations and its refusal to implement two, or possibly three, recommendations. Nevertheless, it will recognize that the GOC fulfilled one recommendation, accomplished substantial progress in another, and achieved varying progress in half a dozen others. A group of foreign missions seeking to help the GOC fulfill the recommendations believes that UNHCHR's compliance assessment may give the GOC insufficient credit on several recommendations, and has encouraged the GOC to draft its own assessment for distribution in Geneva. End Summary.

12. (C) The Colombia office of the UN High Commissioner for Human Rights (UNHCHR), under director Michael Fruhling, is putting the finishing touches on its evaluation of the GOC's compliance with 27 human rights recommendations made in the office's 2002 human rights report and issued in March 2003. The office will make public in early March its official report on the recommendations, prior to the UN Human Rights Commission's annual meeting in Geneva. In meetings with foreign embassies, Fruhling has criticized the GOC for waiting too long to engage seriously on implementing the recommendations and for its uneven commitment to them. The Ministry of Defense and Office of the Prosecutor General (&Fiscalia8) have been particular laggards, he maintains. Of the 27 recommendations, 20 are directed at the executive branch, four at the independent Fiscalia, and three at illegal armed groups. According to Fruhling, the executive branch has fulfilled one recommendation, accomplished substantial progress in a second, achieved varying progress in half a dozen others, and rejected two or three.

13. (C) Fruhling intends to propose in Geneva that the UNHCHR be given a mandate to develop a second set of recommendations, drawn from the current 27, that would guide his office's work for the next 12 months. Colombian Vice president Francisco Santos, who has the lead on human rights within the GOC, would prefer to discard the current set of recommendations and replace them with more general goals that would allow greater operational flexibility. According to Santos, the current recommendations place too much emphasis on taking bureaucratic steps and not enough on addressing fundamental human rights problems.

14. (C) The European Union and some individual European countries have emphasized the need for the GOC to comply fully with the 27 recommendations, in some cases putting such a premium on compliance with the recommendations that they overlook real improvements achieved by the Uribe administration in reducing violence and human rights crimes in Colombia. Many Colombian human rights NGOs critical of Uribe and his Government have vociferously advanced the view that the GOC's uneven compliance with the recommendations demonstrates a lack of commitment to human rights.

15. (C) To assist the GOC with the implementation of the recommendations, seven embassies accredited to Colombia -- Brazil, the Netherlands, Spain, Sweden, Switzerland, the UK and the U.S. -- have formed an informal working group known locally as the G-7. Over the last two months, G-7 representatives have met with Fruhling and Santos, both separately and together. Predictably, these meetings have highlighted differences between the GOC's and UNHCHR's assessments of the Government's compliance with several of the recommendations.

16. (C) Although Fruhling has declined to share an advanced draft of his report to Geneva with G-7 ambassadors, he provided the following oral snapshot to them on February 13:

--The GOC has fulfilled the recommendation on anti-personnel mines (13).

--The GOC has achieved significant progress in improving the effectiveness of the Early Warning System (1).

--The GOC has made some, but still insufficient, progress in: protecting human rights defenders (2); increasing protection for communities at risk (4); implementing human rights training at the Ministry of Defense (8); and improving the public security forces' adherence to international humanitarian law (12). (Note: The Embassy believes the UNHCHR report will give insufficient weight to the Government's extension of state presence throughout the country and success at reducing key indicators of violence, including against human rights defenders and communities at risk. Virtually all the G-7 ambassadors criticized Fruhling for not giving the GOC more credit for the Ministry of Defense's human rights training. Public security personnel continue to commit only a small fraction of human rights violations. End note.)

--The GOC has not assigned personnel from the Inspector General's ("Procuraduria") and Ombudsman's ("Defensoria") offices to all conflictive areas (5), although international funding had helped the GOC assign such personnel to many remote and problematic regions. (Note: Fruhling gives the GOC insufficient credit for having representatives of the Ombudsman's office in all 33 of Colombia's departments. End note.)

--The Vice President has established a Special Committee (20) to advance investigations and prosecutions in select human rights cases, but progress in closing cases has been too slow. (Note: The GOC had significantly advanced six of the one-hundred cases by the end of 2003, and hopes to have advanced another 15 cases by the end of February. End note.)

--Although the GOC is negotiating with several paramilitary organizations, neither the FARC nor the ELN are prepared to enter into dialogue with the Government. It is essential that the GOC's negotiations with illegal armed groups be guided by principles of truth, justice, and reparations (14).

--The Inspector General ("Procuraduria") has not taken disciplinary actions against all state employees who in any way jeopardized the work of human rights defenders (6). In this regard, some public pronouncements from senior GOC officials have been unhelpful.

--Although President Uribe has been clear on the need to sever the public security forces' links with paramilitaries (21), more actions need to be taken

--The GOC has begun preparing a national plan of action on human rights (23), but has not given local governments and key sectors of society (read human rights NGOs) necessary input.

--There have been positive discussions with the Ministry of Education on incorporating human rights education in the national curriculum (24) and providing human rights training to judicial entities (25), but little concrete progress has been achieved.

--Although the Vice President's Office has worked productively with UNHCHR, the GOC as a whole has not taken sufficient advantage of the office's human rights expertise (26 and 27).

--The GOC faces a major challenge in developing policies to narrow the economic inequality gap in Colombia (22).

--The Ministry of Defense is resisting the requirement to suspend from duty public security force personnel implicated in serious human rights violations (19) by relying on what Fruhling believes is an erroneous reading of relevant legal codes.

--The GOC made it clear, at the July 2003 London Conference and subsequently, its disagreement with recommendations calling for it not to adopt anti-terrorism legislation giving the military arrest powers (15) and for the independent Inspector General's Office ("Procuraduria") to inspect military intelligence files on human rights defenders and publish the results (7). Fruhling maintains that the GOC agreed to these recommendations in March 2003 at Geneva, and is therefore bound. (Note: The Colombian Congress approved an anti-terrorism statute in December and will consider implementing legislation next session. The UNHCHR is exploring with the Defense Ministry a possible compromise on

the review of military intelligence files. End note.)

--The Prosecutor General's Office ("Fiscalia") only signed in November an agreement to work with UNHCHR, so no concrete results have been achieved on recommendations 3, 16, 17, and 18.

17. (C) During the past week, however, a majority of G-7 representatives concluded at meeting with Fruhling that UNHCHR gives the GOC insufficient credit for compliance with some of the recommendations and that in others it demands that the GOC go beyond the language of the recommendations. In particular, the Dutch and Swedish Ambassadors, who are among the most conspicuous champions of human rights within the local diplomatic community, openly questioned whether Fruhling has been excessively demanding in his assessments of GOC compliance.

18. (C) On February 18, Vice President Santos met with G-7 ambassadors and excoriated the draft report Fruhling had shown him. He said that the report was highly inaccurate in key sections; the GOC could accept damning assessments, but they should at least be accurate. Santos claimed that he "did not know how to show the draft report to President Uribe." He asked for advice.

19. (C) The Brazilian ambassador urged Santos to produce a GOC drafted human rights report, noting progress where warranted but admitting shortfalls, for the UN Human Rights Committee meeting in Geneva. She was supported by the other G-7 ambassadors present. The G-7 group then met at the Swiss embassy without Santos and came to the same conclusion. No one had much confidence, including the Swedish ambassador, that Fruhling would modify his report before sending it as a draft to Geneva. Subsequently, the Swedish ambassador privately indicated to us that he is considering recommending that the GOS question the draft report's assessments in Geneva -- which would be a surprising development, given that Fruhling is a former Swedish diplomat.

10. (C) Comment: The more critical stance of the G-7 ambassadors regarding certain aspects of the UNHCHR Colombia office's report may not translate into a willingness to criticize it in Geneva. It has, however, put Fruhling on notice that he runs such a risk. End Comment.

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